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December 22, 2017

The Honorable Nicholas G. Garaufis  
United States District Court Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *State of New York, et al. v. Donald Trump, et al.*, 1:17-cv-05228–NGG-JO  
*Batalla Vidal, et al. v. Baran, et al.*, No. 1:16-cv-04756-NGG-JO

**Consent Motion for Leave to File Brief of as *Amici Curiae***

Dear Judge Garaufis:

Our firm, Jenner & Block LLP, serves as pro bono counsel to the following institutions of higher education: Amherst College, Barnard College, Boston University, Bowdoin College, Brandeis University, Bucknell University, Carnegie Mellon University, Case Western University, Colby College, Colgate University, Emerson College, Los Angeles Community College District, Los Rios Community College District, University of Maryland—College Park, Middlebury College, Mount Holyoke College, Northeastern University, Pace University, Rice University, San Mateo Community College District, Tufts University, Vassar College, Washington University in St. Louis, Wellesley College, and Williams College (collectively “Institutions of Higher Education”). I respectfully seek leave to file an *amicus* brief in support of the plaintiffs’ motion for preliminary injunction in the above-captioned cases.<sup>1</sup>

Proposed *amici* have conferred with the plaintiffs in each of the two cases as well as with the Department of Justice, which represents the defendants in both cases. All of the parties consent to the motion for leave to file an *amicus* brief.

*Amici* are institutions of higher education from across the country. *Amici* include large public universities, private research universities and liberal arts colleges, and community colleges. They are located in urban centers and rural farm areas, and throughout states that span the political spectrum. Collectively, *amici* teach and employ millions of people.

*Amici* have seen firsthand the positive effects of the Deferred Action for Childhood

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<sup>1</sup> The Institutions of Higher Education acknowledge that Section III.A of Your Honor's Individual Rules do not expressly require pre-motion letters for motions for leave to file briefs as *amicus curiae*. However, because of the uncommon nature of such motions, we respectfully submit this letter out of an abundance of caution and in deference to the Court.

The Honorable Nicholas G. Garaufis  
December 22, 2017  
Page 2

Arrivals (“DACA”) program on their campuses. DACA has facilitated the pursuit of higher education by undocumented youth in unprecedented numbers. And it has ensured that once enrolled, these students are positioned to succeed. As a result of DACA, thousands of these talented and hard-working young people have made significant and wide-ranging contributions to *amici*’s campuses. They form a key part of *amici*’s campus life and, as institutions, *amici* benefit greatly from the energy and academic excellence they bring. And, *amici* have made substantial investments in the education of undocumented youth in reliance on DACA. Although these students unquestionably benefit from being able to attend our institutions—and this is something DACA certainly facilitates—*amici* also benefit significantly from the many contributions this remarkable group of young people make to their schools.

*Amici* believe the perspective they bring as institutions is relevant to this case because it will demonstrate to the Court another group—beyond DACA recipients themselves—that will be harmed by the Defendants’ actions. This brief demonstrates that Defendants’ arbitrary and capricious actions will impact institutions large and small throughout the nation.

“District courts have broad discretion in deciding whether to accept amicus briefs.” *In re HSBC Bank, USA, N.A., Debit Card Overdraft Fee Litig.*, 14 F. Supp. 3d 99, 103 (E.D.N.Y. 2014) (citation omitted). “An amicus brief should normally be allowed when...the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Citizens Against Casino Gambling in Erie Cty. v. Kempthorne*, 471 F. Supp. 2d 295, 311 (W.D.N.Y. 20117) (citation omitted).

For the foregoing reasons, prospective *amici* respectfully request permission to file an *amicus* brief on or before December 22, 2017.

Dated: December 22, 2017

Respectfully submitted,

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